

United States Postal Service

§ 957.16

hearing, file a request that such hearing be held at a place other than that designated in the Judicial Officer's order relative to hearing. The party shall support his or her request with a statement outlining:

(1) The evidence to be offered in such place;

(2) The names and addresses of the witnesses who will testify;

(3) The reasons why such evidence cannot be produced at Arlington, VA. The Judicial Officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.14 Appearances.

(a) A Respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see part 951 of this chapter).

(c) When a Respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed debarment shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of Respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the Respondent.

(e) After a request for a hearing has been filed pursuant to the rules in this part, the Law Department shall represent the Vice President in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such office who has been assigned to handle the case on its behalf.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.15 Conduct of the hearing.

The Judicial Officer shall have authority to:

(a) Administer oaths and affirmations;

(b) Examine witnesses;

(c) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(d) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(e) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(f) Require the filing of briefs or memoranda of law on any matter upon which the Judicial Officer is required to rule;

(g) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;

(h) Order the proceeding reopened at any time prior to his or her decision for the receipt of additional evidence;

(i) Render a final agency decision;

(j) Take such other further action as may be necessary to properly preside over the debarment proceeding and render decision therein.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

§ 957.16 Evidence.

(a) Except as otherwise provided in the rules in this part, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the Judicial Officer deems proper to insure a fair hearing.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) The written statement of a competent witness may be received in evidence: *Provided*, That such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his or her opinion or knowledge concerning the matters in question.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]